

**ASSEMBLY BILL**

**No. 2257**

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**Introduced by Assembly Member Achadjian**

February 24, 2012

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An act to add Section 3482.7 to the Civil Code, relating to nuisance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, as introduced, Achadjian. Nuisance: landfill activities.

Existing law defines a nuisance, in part, as anything that is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. Existing law authorizes various remedies for nuisances, including remedies to effect abatement and damages. Existing law provides, among other things, that no agricultural activity, operation, or facility, or appurtenances thereof, as defined, in operation for more than 3 years, and conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, shall become a nuisance due to any changed condition in the locality if it was not a nuisance at the time it began, except as specified.

This bill would provide that no landfill activity, operation, or facility, or appurtenances thereof, as defined, in operation for more than 3 years, and conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, shall become a nuisance due to any changed condition in the locality if it was not a nuisance at the time it began, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3482.7 is added to the Civil Code, to read:

3482.7. (a) No landfill activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar landfill operations in the same locality, shall become a nuisance, public or private, due to any changed condition in or about the locality, after it has been in operation for more than three years, if it was not a nuisance at the time it began.

(b) Subdivision (a) shall not apply if the landfill activity, operation, or facility, or appurtenances thereof, obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the landfill activity, operation, or facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of an ordinance or regulation of a city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to a landfill activity, operation, or facility, or appurtenances thereof, and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term “landfill activity, operation, or facility, or appurtenances thereof” shall include, but not be limited to, a waste management unit at which waste is discharged in or on land for disposal. “Landfill activity, operation, or facility, or appurtenances thereof” does not include any surface

- 1 impoundment, waste pile, land treatment unit, injection well, or
- 2 soil amendment.

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